

REMARKS – General

Claim Rejections under 35 USC §103:

The Office Action (OA) of March 20, 2007 stated that claims 87-92 were allowable over prior art, as did the OA of April 4, 2006, and the OA of October 10, 2006. Nonetheless, the most recent OA rejects claims 87-92 under 35 USC §103 as being unpatentable over Olin et al., US Pub App. No. 2004/0005878, hereinafter “Olin,” in view of Wang et al., US Patent No. 6,603,761, hereinafter “Wang.”

Specifically, the OA submits that Olin teaches a packet based billing system in a wireless “environment” (citing paragraphs [0001] and [0003]) wherein communication exists between wireless devices, wherein billing is “based upon” the amount of data transferred and the amount of data received, with each being associated with a billing record. The OA states that the “billing record is executed in a central node such as a server (paragraph 0025, 0026, 0035, 0047).”

The OA then acknowledges that Olin fails to disclose a server accumulating a transferred data amount and a received data amount. The OA submits, however, that Wang discloses a wireless telephone system where a billing server collects and compiles billing information. The OA states that it would therefore have been obvious to one of ordinary skill in the art at the time of the invention to implement the server accumulating recorded transferred data as taught by Wang to the teachings of Olin. Applicants respectfully traverse this rejection.

Applicants begin by respectfully noting that claim 87, as originally filed, recites, a method *within a wireless device* of logging an amount of data received, an amount of data transmitted. (Claim 87 recites, “A method in a wireless device for automatically transmitting packet-based billing data...”) Further, the wireless device additionally transmits the logged amounts to a server. This is all done in the wireless device as it moves from network to network. One way this is accomplished is where the wireless device receives instrumented content having billing code instrumented therein, such that when the instrumented content is executed, the billing tracking code automatically communicates billing data based upon an amount of data transmitted between the modified content and the network. See, e.g., claim 1 as originally filed.

To the contrary, Olin fails to teach an apparatus or method for logging received and transmitted data in a wireless device. Olin expressly teaches away from this by teaching a system where access points attach information “labels” by analyzing data passing through each access point to wireless devices. Olin, paragraph [0042]. Each label includes only registration information that is authenticated by a central node. Olin, paragraph [0042]. The central node manages all billing operations by reading the labels. Olin, paragraph [0044].

Further, the system of Olin requires that the access points be hard-coupled to the central node. Olin states that the connection of each access point to the server “...is preferably some kind of wired connection, such as ISDN, T1, etc.” Olin, paragraph [0035]. This is the case because “...a data packet from a mobile device can take several different routes and pass a variety of operators.” Olin, paragraph [0044]. While the labels can be stored in the access nodes, they contain no logging of data and must be transmitted to a central node that then reads these labels to collect billing data. Olin, paragraph [0045]. For example, at paragraph [0045], Olin states, “In the system there is a central node, which is adapted to receive this [label] information from the access points in order to redistribute the costs. These labels are read by the central server to collect billing data.”

Thus, Olin fails to teach a system *in a wireless device* for logging the amount of data accumulated, logging the amount of data sent, and then transmitting the logged information from the wireless device to a central server for accumulation as is claimed by Applicants. While Olin requires wired access points coupled in fixed relation to other access points, Applicants’ invention can roam from network to network, as the logging and transmitting is performed by the wireless device, without assistance from an access node. (To eliminate any ambiguity from the “in a wireless device” language appearing in the preamble of Applicants’ claim 87, Applicants have amended the claim to recite the language in the claim elements. Support for the amendment may be found in the preamble of claim 87 as originally filed. Support may also be found at claim 49 as originally filed, claim 93 as originally filed, in the specification at paragraph [0029], and at paragraph [0031].)

Olin fails to teach the steps of logging amounts of data or transmitting the logged amounts of data as claimed by Applicants. As noted above, Olin teaches the attachment of a label to data passing through an access point. The access points neither log data received nor log data sent. They merely attach information as a label to a data packet passing through the access point.

Wang fails to teach any logging or tracking of an amount of data transmitted or received as well. Wang merely teaches a method of redirecting calls, where a user enters credit card information to pay for the use of a roaming network. The user is billed when the accumulated bill amount exceeds a predetermined amount. Wang, col. 5, lines 33-42, col. 7, lines 7-12, and col. 9, lines 23-30. There is no recitation of any billing function occurring in a wireless device in the specification of Wang.

As neither Olin nor Wang teach logging an amount of data sent in a wireless device, logging an amount of data received in a wireless device, or transmitting the logged amounts from the wireless device to a central server, as claimed by Applicants in independent claim 87, Applicants respectfully submit that the combination of references fails to teach all of Applicants' claimed limitations. Applicants respectfully submit that the §103 rejection is therefore overcome. Applicants respectfully request reconsideration of the rejection in light of these comments.

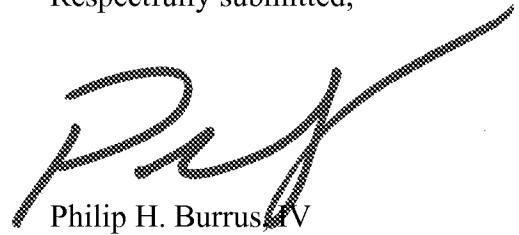
Claim 92 was amended to provide proper antecedent basis. Any additional support required for the amendment to claim 92 is found in claim 1 as originally filed.

As claims 88-92 depend from claim 87, Applicants respectfully submit that the rejections to these claims are overcome by the comments above. Applicants respectfully request reconsideration of the rejections to these claims.

CONCLUSION

For the above amendments to the claims, Applicants believe the specification and claims are now in proper form, and that the claims all define patentably over the prior art. Applicants believe this application is now in condition for allowance, for which they respectfully submit. If any matter may be more easily handled by telephone, the undersigned attorney welcomes telephone calls from the Examiner.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "PHILIP H. BURRUS IV", with a long, sweeping horizontal stroke extending to the right.

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